

MUR # 7031

RECEIVED
FEDERAL ELECTION
COMMISSION

BEFORE THE UNITED STATES...
FEDERAL ELECTION COMMISSION MAR 22 PM 1: 08

Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20005
(202) 736-2200

OFFICE OF GENERAL
COUNSEL

Democracy 21
2000 Massachusetts Avenue, NW
Washington, DC 20036
(202) 355-9600

Lawrence M. Noble
1411 K Street, NW, Suite 1400
Washington, DC 20005
(202) 736-2200

v.

MUR No. _____

Children of Israel, LLC
19821 Loree Ave
Cupertino, CA 95014

Shaofen Gao
19821 Loree Ave
Cupertino, CA 95014

John Doe, Jane Doe and other
persons who created and operated
Children of Israel, LLC and made
contributions to Pursuing America's
Greatness and Stand for Truth in the
name of Children of Israel, LLC

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Shaofen Gao and Children of Israel, LLC and any person(s) who created, operated and made contributions to or in the name of Children of Israel, LLC (John Doe,

Jane Doe and other persons) may have violated provisions of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, *et seq.*

2. Specifically, based on published reports, complainants have reason to believe that Shaofen Gao and any other person(s) who created, operated and/or contributed to Children of Israel, LLC may have violated 52 U.S.C. § 30122 by making contributions to the political committees Pursuing America's Greatness (I.D. C00573923) and Stand for Truth (I.D. C00592337) in the name of another person, namely Children of Israel, LLC, and that Children of Israel, LLC may have violated 52 U.S.C. § 30122 by knowingly permitting its name to be used for the making of such contribution.
3. Further, based on published reports, complainants have reason to believe that Children of Israel, LLC, Shaofen Gao, and any other person(s) who created and/or operated Children of Israel, LLC may have violated 52 U.S.C. §§ 30102, 30103 and 30104 by failing to organize Children of Israel, LLC as a political committee, as defined at 52 U.S.C. § 30101(4), and failing to register the political committee and failing to file disclosure reports as a political committee.
4. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission shall make an investigation of such alleged violation" 52 U.S.C. § 30109(a)(2); *see also* 11 C.F.R. § 111.4(a) (emphasis added).

BACKGROUND

5. The *Washington Post* reported earlier this month that \$400,000 had been donated to two candidate-specific Super PACs by "Children of Israel LLC, a company formed in

California last June by Shaofen "Lisa" Gao, a real estate agent in Cupertino, Calif., whose Happy Realty firm helps Chinese buyers find homes in Silicon Valley."¹

6. The *Washington Post* continued: "Weeks after being formed, Children of Israel gave \$50,000 to Pursuing America's Greatness, a super PAC supporting the presidential bid of former Arkansas governor Mike Huckabee, FEC records show. In November, the LLC gave the pro-Huckabee group \$100,000. And this January, it donated \$250,000 to Stand for Truth, a super PAC backing Sen. Ted Cruz of Texas."²
7. The LLC's stated purpose was to make such donations, the *Washington Post* reported: "On a form filed with the secretary of state's office in September, Gao listed Children of Israel's type of business as "Donations," according to a document found by a researcher for End Citizens United, a Democratic PAC that supports candidates in favor of stricter campaign-finance rules."³
8. Shaofen Gao is the registered agent for Children of Israel, LLC, registered with the California Secretary of State at the address 19821 Loree Ave., Cupertino, CA 95014.⁴ However, it appears that the correct address is 18921 Loree Ave., Cupertino, CA 95014, which is the address Gao lists on her real estate license.⁵
9. According to its 2015 year-end report filed with the Commission, Pursuing America's Greatness's reported receiving a \$50,000 donation from Children of Israel LLC on July

¹ Matea Gold and Anu Narayanswamy, *How 'Ghost Corporations' are Funding the 2016 Election*, WASHINGTON POST, March 18, 2016 available at https://www.washingtonpost.com/politics/how-ghost-corporations-are-funding-the-2016-election/2016/03/18/2446e526-ed14-11e5-a6f3-21ecdb5f74e_story.html?wpmm=1&wpisrc=nl_headlines.

² *Id.*

³ *Id.*

⁴ See California Secretary of State website database, <http://kepler.sos.ca.gov/>.

⁵ See State of California Bureau of Real Estate website, Shaofen Gao license information, available at http://www2.dre.ca.gov/PublicASP/pplinfo.asp?License_id=01720219.

13, 2015, and a \$100,000 donation from Children of Israel LLC on November 13, 2015, both from the address 18921 Loree Ave., Cupertino, CA 95014.⁶

10. Stand for Truth (registered with the Commission as Stand ForTruth, Inc.) reported on its January 2016 report filed with the Commission that it received a \$250,000 donation on January 26, 2016 from Children of Israel, LLC at that same address.⁷
11. As of March 22, 2016, these donations put Children of Israel LLC among the top four donors to Pursuing America's Greatness, and among the top four donors to Stand for Truth, according to a Center for Responsive Politics analysis.⁸

PROHIBITION ON CONTRIBUTIONS IN THE NAME OF ANOTHER

12. FECA provides that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person."

52 U.S.C. § 30122.

13. The Commission regulation implementing the statutory prohibition on "contributions in the name of another" provides the following examples of "contributions in the name of another":

- "Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source

⁶ See Pursuing America's Greatness 2015 Year-End Report of Receipts and Disbursements, filed Jan. 31, 2016, available at <http://docquery.fec.gov/pdf/323/201601319004994323/201601319004994323.pdf>.

⁷ See Stand for Truth, Inc. January 2016 FEC Report of Receipts and Disbursements, filed Feb. 19, 2016, available at <http://docquery.fec.gov/pdf/366/201602199008504366/201602199008504366.pdf>.

⁸ Center for Responsive Politics/OpenSecrets.org, "Pursuing America's Greatness," Top Donors 2016 cycle, available at <https://www.opensecrets.org/outsidespending/contrib.php?cmte=C00573923&cycle=2016> and "Stand for Truth," Top Donors 2016 cycle, available at https://www.opensecrets.org/outsidespending/contrib_all.php?cmte=C00592337&type=A.

of money or the thing of value to the recipient candidate or committee at the time the contribution is made," 11 C.F.R. § 110.4(b)(2)(i).

- "Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source." 11 C.F.R. § 110.4(b)(2)(ii).

14. Based on published reports, there is reason to believe that Children of Israel, LLC may have violated 52 U.S.C. § 30122 by "[g]iving money . . . , all or part of which was provided to" Children of Israel, LLC by Shaofen Gao or another person (*i.e.*, the true contributor(s)) without disclosing the true source of money at the time of making the contributions to Pursuing America's Greatness and Stand for Truth. *See* 11 C.F.R. § 110.4(b)(2)(i).
15. Based on published reports, there is reason to believe that Shaofen Gao and any other person(s) who created, operated and/or contributed to Children of Israel, LLC may have violated 52 U.S.C. § 30122 by "[m]aking a contribution of money . . . and attributing as the source of the money . . . another person [namely, Children of Israel, LLC] when in fact [the person(s) who created, operated and/or contributed to Children of Israel, LLC was] the source." *See* 11 C.F.R. § 110.4(b)(2)(ii).
16. Based on published reports, there is reason to believe that Children of Israel, LLC has violated 52 U.S.C. § 30122 by "knowingly permit[ting its] name to be used to effect such a contribution." 52 U.S.C. § 30122. Indeed, Children of Israel, LLC acknowledges that the group was formed to make "donations" in documents filed with the California Secretary of State.

**POLITICAL COMMITTEE STATUS, REGISTRATION
AND REPORTING REQUIREMENTS**

17. FECA defines the term "political committee" to mean "any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." 52 U.S.C. § 30101(4)(A); *see also* 11 C.F.R. § 100.5(a).

"Contribution," in turn, is defined as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office[.]" 52 U.S.C. § 30101(8)(A)(i). Similarly, "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office[.]" 52 U.S.C. § 30101(9)(A)(i).

18. In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court construed the term "political committee" to "only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate." *Id.* at 79 (emphasis added). Again, in *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), the Court invoked the "major purpose" test and noted, in the context of analyzing the activities of a 501(c)(4) group, that if a group's independent spending activities "become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee." *Id.* at 262 (emphasis added). In that instance, the Court continued, it would become subject to the "obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns." *Id.* (emphasis added). The Court in *McConnell v. FEC*,

540 U.S. 93 (2003), restated the “major purpose” test for political committee status as iterated in *Buckley, Id.* at 170 n.64.

19. The Commission has explained:

[D]etermining political committee status under FECA, as modified by the Supreme Court, requires an analysis of both an organization’s specific conduct—whether it received \$1,000 in contributions or made \$1,000 in expenditures—as well as its overall conduct—whether its major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).

Supplemental Explanation and Justification on Political Committee Status, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007).

20. Based on the above, there is a two prong test for “political committee” status under federal law: (1) whether an entity or other group of persons has a “major purpose” of influencing the “nomination or election of a candidate,” as stated by *Buckley*, and if so, (2) whether the entity or other group of persons receives “contributions” or makes “expenditures” of \$1,000 or more in a calendar year.
21. Any entity that meets the definition of a “political committee” must file a “statement of organization” with the Federal Election Commission, 52 U.S.C. § 30103, must comply with the organizational and recordkeeping requirements of 52 U.S.C. § 30102, and must file periodic disclosure reports of its receipts and disbursements, 52 U.S.C. § 30104.⁹
22. The political committee disclosure reports required by FECA must disclose to the Commission and the public, including complainants, comprehensive information regarding such committee’s financial activities, including the identity of any donor who

⁹ In addition, a “political committee” that does not confine its activities to “independent expenditures” is subject to contribution limits, 52 U.S.C. §§ 30116(a)(1), 30116(a)(2), and source prohibitions, 52 U.S.C. § 30118(a), on the contributions it may receive. 52 U.S.C. § 30116 (f); *see also* FEC Ad. Op. 2010-11 at 2 (Commonsense Ten). (A committee that “intends to make only independent expenditures” and “will not make any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization” is not subject to contribution limits.)

has contributed \$200 or more to the committee within the calendar year. *See* 52 U.S.C. § 30104(b). The Supreme Court has repeatedly recognized the importance of campaign finance disclosure to informing the electorate. *See, e.g., Citizens United v. FEC*, 558 U.S. 310, 369 (2010) (“[T]he public has an interest in knowing who is speaking about a candidate shortly before an election.”).

23. Based on published reports, there is reason to believe that Children of Israel, LLC has met the two-prong test for political committee status by (1) being an entity or group of persons with the “major purpose” of influencing the “nomination or election of a candidate”¹⁰ and (2) by receiving “contributions” of \$1,000 or more in a calendar year.
24. Indeed, in documents filed with the California Secretary of State, Children of Israel, LLC acknowledges it was formed with the purpose of making “donations,” and reports filed with the Commission demonstrate that Children of Israel, LLC has donated at least \$400,000 to political committees between September 2015 and January 2016; there is no public record of Children of Israel, LLC conducting any other activities since its formation. Consequently, there is reason to believe that Children of Israel, LLC, Shaofen Gao, and any other person(s) who created and operated Children of Israel, LLC have violated 52 U.S.C. §§ 30102, 30103 and 30104 by failing to organize Children of Israel, LLC as a political committee, as defined at 52 U.S.C. § 30101(4), and failing to register the political committee and failing to file disclosure reports as a political committee.

PRAYER FOR RELIEF

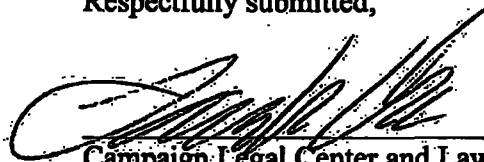
25. Wherefore, the Commission should find reason to believe that Children of Israel, LLC and the person(s) who created, operated and/or contributed to Children of Israel, LLC

¹⁰ *See Massachusetts Citizens for Life*, 479 U.S. at 262 (If a group’s political activities “become so extensive that the organization’s major purpose may be regarded as campaign activity, the corporation would be classified as a political committee.”)

have violated 52 U.S.C. § 30101 *et seq.*, including 52 U.S.C. §§ 30102, 30103, 30104 and 30122 and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

26. Further, the Commission should require Children of Israel, LLC to register as a political committee and file all required reports, seek appropriate sanctions for any and all violations, including civil penalties and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,



Campaign Legal Center and Lawrence M. Noble,
by Lawrence M. Noble
1411 K Street, NW, Suite 1400
Washington, DC 20005
(202) 736-2200



Democracy 21, by
Fred Wertheimer
2000 Massachusetts Avenue, NW
Washington, DC 20036
(202) 355-9600

Lawrence M. Noble
Brendan Fischer
The Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20002
Counsel to the Campaign Legal Center

Donald J. Simon
Sonosky, Chambers, Sachse
Endreson & Perry LLP
1425 K Street, NW – Suite 600
Washington, DC 20005
Counsel to Democracy 21

March 22, 2016

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

**For Complainants Campaign Legal Center and
Lawrence M. Noble**

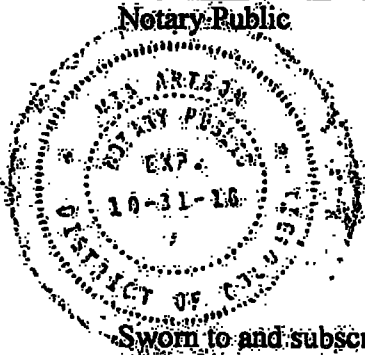


Lawrence M. Noble

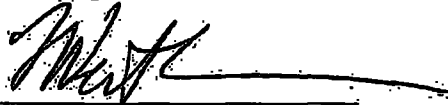
Sworn to and subscribed before me this 22 day of March 2016.

Mia Antson

Notary Public



For Complainant Democracy 21



Fred Wertheimer

Sworn to and subscribed before me this 22 day of March 2016.

Mia Antson

Notary Public

